

§ 161. Interstate quarantine; shipments or removals from quarantined localities forbidden; regulations by Secretary for shipment, etc., from quarantined localities; promulgation

The Secretary of Agriculture is authorized and directed to quarantine any State, Territory, or District of the United States, or any portion thereof, when he shall determine that such quarantine is necessary to prevent the spread of a dangerous plant disease or insect infestation, new to or not theretofore widely prevalent or distributed within and throughout the United States. No person shall ship or offer for shipment to any common carrier nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined State or Territory or District of the United States, or from any quarantined portion thereof, into or through any other State or Territory or District, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine except as hereinafter provided. It shall be unlawful to move, or allow to be moved, any class of nursery stock or any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from any quarantined State or Territory or District of the United States or quarantined portion thereof, into or through any other State or Territory or District, in manner or method or under conditions other than those prescribed by the Secretary of Agriculture. It shall be the duty of the Secretary of Agriculture, when the public interests will permit, to make and promulgate rules and regulations which shall permit and govern the inspection, disinfection, certification, and method and manner of delivery and shipment of the class of nursery stock or of any other class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infestation, specified in the notice of quarantine hereinbefore provided, and regardless of the use for which the same is intended, from a quarantined State or Territory or District of the United States, or quarantined portion thereof, into or through any other State or Territory or District: *Provided*, That if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further*, That until the Secretary of Agriculture shall have made a determination that such a

quarantine is necessary and has duly established the same with reference to any dangerous plant disease or insect infestation, as hereinabove provided, nothing in this chapter shall be construed to prevent any State, Territory, Insular Possession, or District from promulgating, enacting, and enforcing any quarantine, prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed, or other product or article subject to the restrictions of this section, into or through such State, Territory, District, or portion thereof, from any other State, Territory, District, or portion thereof, when it shall be found, by the State, Territory, or District promulgating or enacting the same, that such dangerous plant disease or insect infestation exists in such other State, Territory, District, or portion thereof: *Provided further*, That the Secretary of Agriculture is authorized, whenever he deems such action advisable and necessary to carry out the purposes of this chapter, to cooperate with any State, Territory, or District, in connection with any quarantine, enacted or promulgated by such State, Territory, or District, as specified in the preceding proviso: *Provided further*, That any nursery stock, plant, fruit, seed, or other product or article, subject to the restrictions of this section, a quarantine with respect to which shall have been established by the Secretary of Agriculture under the provisions of this chapter shall, when transported to, into, or through any State, Territory, or District, in violation of such quarantine, be subject to the operation and effect of the laws of such State, Territory, or District, enacted in the exercise of its police powers, to the same extent and in the same manner as though such nursery stock, plant, fruit, seed, or other product or article had been produced in such State, Territory, or District, and shall not be exempt therefrom by reason of being introduced therein in original packages or otherwise.

(Aug. 20, 1912, ch. 308, § 8, 37 Stat. 318; Mar. 4, 1917, ch. 179, 39 Stat. 1165; Apr. 13, 1926, ch. 135, 44 Stat. 250; Oct. 10, 1978, Pub. L. 95-439, § 4, 92 Stat. 1062; Jan. 8, 1983, Pub. L. 97-432, § 1(3), 96 Stat. 2276; Apr. 4, 1996, Pub. L. 104-127, title IX, § 911, 110 Stat. 1185.)

AMENDMENTS

1996—Pub. L. 104-127, in fourth sentence, inserted “if the Secretary of Agriculture determines under this section that it is necessary to quarantine a State entirely comprised of islands, the Secretary of Agriculture, in implementing the restrictions authorized under this section, shall give consideration to enhancing passenger movement and commerce on and between islands in the State: *Provided further*, That” after “*Provided*, That”.

1983—Pub. L. 97-432 struck out provision directing Secretary to hold a hearing before promulgating a determination of necessity to quarantine.

1978—Pub. L. 95-439 struck out provisions requiring the Secretary of Agriculture to give notice of the establishment of a quarantine to common carriers doing business in or through the quarantined area, to publish notice of the establishment of the quarantine in newspapers in the quarantined area, and to give notice of the rules and regulations provided for in this section for the notice of establishment of quarantine.

1926—Act Apr. 13, 1926, inserted last three provisos.

1917—Act Mar. 4, 1917, substituted “that such quarantine is necessary to prevent the spread of” for “the

fact that," in first sentence, inserted "or any class of stone or quarry products, or any other article of any character whatsoever, capable of carrying any dangerous plant disease or insect infection" after the first three references to "seeds, or other plant products," and inserted "when the public interest will permit" after "That it shall be the duty of the Secretary of Agriculture".

TRANSFER OF FUNCTIONS

Functions of all officers, agencies, and employees of Department of Agriculture transferred, with certain exceptions, to Secretary of Agriculture by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out as a note under section 2201 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3014.

§ 161a. Omitted

CODIFICATION

Section was from the Department of Agriculture Appropriation Act, 1945, act June 28, 1944, ch. 296, 58 Stat. 440, related to disposition of moneys from inspection and certification of domestic plants and plant products for export, and was not repeated in subsequent appropriation acts. Similar provisions were contained in prior appropriation acts as follows:

July 12, 1943, ch. 215, 57 Stat. 408.
July 22, 1942, ch. 516, 56 Stat. 686.

§ 162. Rules and regulations

The Secretary of Agriculture shall make and promulgate such rules and regulations as may be necessary for carrying out the purposes of this chapter.

(Aug. 20, 1912, ch. 308, § 9, 37 Stat. 318.)

§ 163. Violations; forgery, alterations, etc., of certificates; punishment; civil penalty

Any person who knowingly violates any provision of this chapter or any rule or regulation promulgated by the Secretary of Agriculture under this chapter, or who knowingly forges or counterfeits any certificate provided for in this chapter or in any such rule or regulation, or who, knowingly and without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine not exceeding \$5,000, by imprisonment not exceeding one year, or both. Any person who violates any such provision, rule, or regulation, or who forges or counterfeits any such certificate, or who, without the authority of the Secretary, uses, alters, defaces, or destroys any such certificate, may be assessed a civil penalty by the Secretary not exceeding \$1,000. The Secretary may issue an order assessing such civil penalty only after notice and an opportunity for an agency hearing on the record. Such order shall be treated as a final order reviewable under chapter 158 of title 28. The validity of such order may not be reviewed in an action to collect such civil penalty.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318; Jan. 12, 1983, Pub. L. 97-461, § 2, 96 Stat. 2523.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to

sections 164 and 164a of this title. Section is also set out in D.C. Code, § 6-1105.

AMENDMENTS

1983—Pub. L. 97-461 added the element of knowledge to the definition of all violations, added use and the lack of authority from the Secretary to the definition of the group of violations including alteration, defacement or destruction of certificates, substituted criminal penalties of a fine not exceeding \$5,000 or a year's imprisonment or both for a fine of \$500 or a year's imprisonment or both in the discretion of the court, inserted provisions relating to civil penalties, and struck out provision that no common carrier would be deemed to have violated sections 152, 154, 156 to 161, and 162 of this title on proof that such carrier did not knowingly receive for transportation or transport nursery stock or other plants or plant products as such in the United States.

CROSS REFERENCES

District of Columbia, violation of rules and regulations, see section 167 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 167 of this title.

§ 164. Duty of United States attorneys to prosecute

It shall be the duty of the United States attorneys diligently to prosecute any violations of this chapter which are brought to their attention by the Secretary of Agriculture or which come to their notice by other means.

(Aug. 20, 1912, ch. 308, § 10, 37 Stat. 318.)

CODIFICATION

Section is composed of part of section 10 of act Aug. 20, 1912. Other provisions of section 10 are classified to sections 163 and 164a of this title. Section is also set out in D.C. Code, § 6-1105.

§ 164a. Enforcement of quarantine against nursery stock and plant products; search and seizure

Any employee of the Department of Agriculture, authorized by the Secretary of Agriculture to enforce the provisions of this chapter and furnished with and wearing a suitable badge for identification, who has probable cause to believe that any person coming into the United States, or any vehicle, receptacle, boat, ship, or vessel, coming from any country or countries or moving interstate, possesses, carries, or contains any nursery stock, plants, plant products, or other articles the entry or movement of which in interstate or foreign commerce is prohibited or restricted by the provisions of this chapter, or by any quarantine or order of the Secretary of Agriculture issued or promulgated pursuant thereto, shall have power to stop and, without warrant, to inspect, search, and examine such person, vehicle, receptacle, boat, ship, or vessel, and to seize, destroy, or otherwise dispose of, such nursery stock, plants, plant products, or other articles found to be moving or to have been moved in interstate commerce or to have been brought into the United States in violation of this chapter, or of such quarantine or order.

(Aug. 20, 1912, ch. 308, § 10, as added May 1, 1928, ch. 462, 45 Stat. 468.)